

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	3:CR-18-0097
	:	
v.	:	(Judge Mariani)
	:	
ROSS ROGGIO	:	(Electronically filed)

EX PARTE MOTION FOR SUBPOENA
HOMELAND SECURITY INVESTIGATIONS
SPECIAL AGENT JEFFREY BURKE

AND NOW comes the Defendant, Ross Roggio, by his attorney, Gino Bartolai, Esquire, and moves this Honorable Court for an Order permitting the issuance and service of a Subpoena. This request is made pursuant to Rules 17 (b) of the Federal Rules of Criminal Procedure. In support thereof, it is respectfully averred as follows:

1. On March 20, 2018, Roggio was charged in an Indictment with conspiracy to commit an offense against the United States, in violation of Title 18, United States Code, Section 371; violations of the Arms Export Control Act, Title 22, United States Code, Sections 2778(b) and (c); and the International Emergency Powers Act, Title 50, United States Code, Sections 1702 and 1705(c); smuggling goods from the United States, in violation of Title 18 United States Code Sections 554 and 2; wire fraud, in violation of Title 18, United

States Code Section 1342; and money laundering, in violation of Title 18 United States Code, Sections 1956(a)(2)(A) and 2.

2. On March 23, 2018, Roggio appeared before Magistrate Judge Karoline Mehalchick for an initial appearance and arraignment and entered a plea of not guilty to the charges.

3. On April 3, 2019, the undersigned was appointed as counsel for Roggio pursuant to the Criminal Justice Act, Title 18, U.S.C. § 3006A.

4. On February 26, 2017, Roggio was detained at JFK International Airport, subjected to custodial interrogation, and his person property seized and subsequently searched in violation of the Fourth and Fifth Amendments.

5. Roggio has filed pretrial motions challenging the above referenced searches and seizures and a Suppression Hearing on the motions is scheduled to commence on May 27, 2021.

6. Roggio is seeking to subpoena Homeland Security Investigations Special Agent Jeffrey Burke. Special Agent Burke was investigating the alleged unlawful export activities of Roggio for months prior to Roggio's detention at JFK Airport. On January 27, 2017, Special Agent Burke created a subject record within the HSI investigative case management system for Roggio which included a 24-hour advance notification of any travel by Roggio.

7. On February 25, 2017, Special Agent Burke received an automatic notification via the DHS reporting system that Roggio was scheduled to arrive at JFK on February 26 2017, at approximately 6:25 p.m. aboard Turkish Airlines flight #1. Special Agent Burke then coordinated with the HSI New York JFK Office and U.S. Customs and Border Protection to arrange for Roggio and Sidiropoulou to undergo a secondary examination and border search upon their arrival at JFK customs.

8. Roggio submits that it was Special Agent Burke who had Homeland Security Investigations Special Agent James Mundy and FBI Special Agent Douglas Vetrano be present at Roggio's secondary examination and directed that they seize Roggio and Sidiropoulou's electronic devices under the guise of a border search.

9. On February 27, 2017, Special Agent Burke generated Secondary Inspection Reports relative to the detention of Roggio and seizure of his electronic devices which have been attached to Roggio's Motion to Suppress Statements and Related Evidence as Exhibits B and C. On February 28, 2017, Special Agent Burke received Roggio's seized electronic devices from Special Agent James Mundy, physically inspected the detained property, and on March 1, 2017, submitted the items to Computer Forensics Agent Doug Green who forensically

examined the detained items without a search warrant.

10. The undersigned counsel submits that the witness's presence is necessary in order to properly represent Roggio and to effectuate Roggio's rights under the Fourth and Fifth Amendments.

11. The undersigned counsel has attached the necessary statement pursuant to 28 C.F.R. § 16.23(C).

12. Pursuant to Rule 17 (b) of the Federal Rules of Criminal Procedure, Roggio requests that the incurred costs of said Subpoena be borne by the Government.

WHEREFORE, the Defendant, Ross Roggio, respectfully requests that said Subpoena be issued under the direction of this Court, ordering that Homeland Security Investigations Special Agent Jeffrey Burke appear at Roggio's Suppression Hearing and remain until excused.

Respectfully submitted,

Date: April 6, 2021

s/ Gino Bartolai

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Schedule of Subpoena

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STATEMENT PURSUANT TO 28 C.F.R. § 16.23(C)

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Roggio submits that Special Agent Burke will testify relative to the facts and circumstances of the detention, the interrogation, and seizure of Roggio's personal property.

Respectfully submitted,

Date: April 6, 2021

s/Gino Bartolai
Gino Bartolai, Esquire
Attorney ID# PA 56642

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